

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

EASTERN PACIFIC CHARTERING (22) INC.

CASE NUMBER:

PLAINTIFF(S)

2:22-cv-05111-PA-JC

v.

LOUIS DREYFUS COMPANY

**ORDER TO STRIKE ELECTRONICALLY  
FILED DOCUMENT(S)**

DEFENDANT(S).

The Court hereby **ORDERS** the documents listed below be **STRICKEN** for failure to comply with the Court's Local Rules, General Orders, and/or Case Management Order, as indicated:

<u>Date Filed</u>	<u>Doc. No.</u>	<u>Title of Document</u>
07/23/2022	6	EX PARTE APPLICATION for Issuance of Process of Maritime Attachment and Garnishment
07/23/2022	7	EX PARTE APPLICATION for Order for Appointing Special Process Server Pursuant to FED. R. CIV. P. 4(C)(3)

- ☐ Document submitted in the wrong case
- ☐ Incorrect document is attached to the docket entry
- ☐ Document linked incorrectly to the wrong document/docket entry
- ☐ Incorrect event selected. Correct event is \_\_\_\_\_
- ☐ Case number is incorrect or missing
- ☐ Hearing information is missing, incorrect, or not timely
- ☐ Local Rule 7.1-1 No Certification of Interested Parties and/or no copies
- ☐ Case is closed
- ☐ Proposed Document was not submitted as separate attachment
- ☐ Title page is missing
- ☐ Local Rule 56-1 Statement of uncontroverted facts and/or proposed judgment lacking
- ☐ Local Rule 56-2 Statement of genuine disputes of material fact lacking
- ☒ Local Rule 7-19.1 Notice to other parties of ex parte application lacking
- ☐ Local Rule 11-6 Memorandum/brief exceeds 25 pages
- ☐ Local Rule 11-8 Memorandum/brief exceeding 10 pages shall contain table of contents
- ☐ Other:

Dated: July 29, 2022

By: 

U.S. District Judge / U.S. Magistrate Judge

cc: Assigned District and/or Magistrate Judge

Please refer to the Court's website at [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov) for Local Rules, General Orders, and applicable forms.

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Chartering (22) Inc.

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7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

10 EASTERN PACIFIC CHARTERING (22)  
INC.,

11 Plaintiff,

12 vs.

13 LOUIS DREYFUS COMPANY FREIGHT  
14 ASIA PTE LTD.,

15 Defendant,

16 and

17 DBS BANK LTD.,

18 Garnishee.  
19

Case No. 2:22-cv-5111

IN ADMIRALTY, Fed. R. Civ. P. 9(h)

**EX PARTE APPLICATION FOR  
ORDER APPOINTING SPECIAL  
PROCESS SERVER PURSUANT TO  
FED. R. CIV. P 4(C)(3) AND  
SUPPLEMENTAL RULE B**

20 Plaintiff Eastern Pacific Chartering (22) Inc. files this *Ex Parte* Application  
21 pursuant Fed. R. Civ. P. 4(c)(3) and Supplemental Rule B(1)(d)(ii) of the  
22 Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal  
23 Rules of Procedure, for an order appointing Neil B. Klein of the undersigned firm  
24 or a third party process server who is authorized to serve legal process under  
25 California law, all over 18 years of age and not a party to the action, to act as  
26 special process server to effect service of the Process of Maritime Attachment and  
27 Garnishment and of any supplemental process in this matter on Garnishee DBS  
28 Bank Ltd. and/or at any DBS Bank Ltd. branch within the Central District of

1 California where service is accepted.

2 Supplemental Rule B(1)(d)(ii) provides in pertinent part as follows:

3 If the property is other tangible or intangible property, the  
4 summons, process, and any supplemental process must be  
5 delivered to a person or organization authorized to serve it, who  
6 may be (A) a marshal; (B) someone under contract with the United  
7 States; (C) ***someone specially appointed by the court for that***  
8 ***purpose***; or, (D) in an action brought by the United States, any  
9 officer or employee of the United States.

10 (Emphasis added). Fed. R. Civ. P. Rule 4(c)(3) provides in relevant part: "At the  
11 plaintiff's request, the court may order that service be made by a United States  
12 marshal or deputy marshal or by a person specially appointed by the court."

13 As further basis for this motion, service of the maritime garnishment writs issued  
14 on garnishees in this District will be straightforward and involve delivery of the writ  
15 to the garnishees believed to be in possession of funds. Service of maritime  
16 garnishment writs will not involve restraint of physical property. Utilizing private  
17 process service will conserve the resources of the United States Marshal.

18 Plaintiff will, upon service, promptly cause returns of service to be filed.

19 WHEREFORE, Plaintiff respectfully requests this Court to grant the *ex parte*  
20 relief requested and appoint a special process server who is over the age of 18  
21 and not a party to this action, as set out in the proposed order submitted  
22 concurrently herewith.

23 Date: July 23, 2022

Respectfully submitted,

24  
25 /s/ Neil B. Klein

26 Neil B. Klein  
27 McKasson & Klein LLP  
28 Attorneys for Plaintiff Eastern Pacific  
Chartering (22) Inc.

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<b>UNITED STATES DISTRICT COURT</b>	
<b>CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION</b>	
EASTERN PACIFIC CHARTERING (22) INC.,	Case No. 2:22-cv-5111
Plaintiff,	IN ADMIRALTY
vs.	
LOUIS DREYFUS COMPANY FREIGHT ASIA PTE LTD.,	<b>[PROPOSED] ORDER APPOINTING SPECIAL PROCESS SERVER PURSUANT TO FED. R. CIV. P 4(C)(3) AND SUPPLEMENTAL RULE B</b>
Defendant,	
and	
DBS BANK LTD., Garnishee	

The Court, having reviewed Plaintiff Eastern Pacific Chartering (22) Inc.’s *Ex Parte* Application filed pursuant Fed. R. Civ. P. 4(c)(3) and Supplemental Rule B(1)(d)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Procedure, for an order appointing a special process server to effect service of the Process of Maritime Attachment and Garnishment and of any supplemental process in this matter, and it appearing that such appointment will result in substantial economies in time and expense, hereby:



1 Neil B. Klein, CA Bar No. 142734  
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2 McKASSON & KLEIN LLP  
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4 Phone: (949) 724-0200  
Attorneys for Plaintiff  
5 Eastern Pacific Chartering (22) Inc.  
6

7 **UNITED STATES DISTRICT COURT**

8 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

9 EASTERN PACIFIC CHARTERING  
10 (22) INC.,

11 Plaintiff,

12 vs.

13 LOUIS DREYFUS COMPANY  
14 FREIGHT ASIA PTE LTD.,

15 Defendant,  
16

17 and

18 DBS BANK LTD.,

19 Garnishee  
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Case No. 2:22-cv-5111

IN ADMIRALTY, Fed. R. Civ. P. 9(h)

***EX PARTE* APPLICATION FOR  
ORDER AUTHORIZING ISSUANCE  
OF PROCESS OF MARITIME  
ATTACHMENT AND  
GARNISHMENT; POINTS AND  
AUTHORITIES**

22 Plaintiff Eastern Pacific Chartering (22) Inc. (“EPC22”) files this *Ex Parte*  
23 Application pursuant to Supplemental Rule B for Certain Admiralty and Maritime  
24 Claims of the Federal Rules of Procedure, for an order authorizing immediate  
25 issuance of process of maritime attachment and garnishment for the property of  
26 Defendant Louis Dreyfus Company Freight Asia Pte Ltd. held or controlled by  
27 garnishees, including DBS Bank Ltd. or its agents, within in this District.

28 This Application is based on EPC22’s Verified Complaint on file with the Court,

1 the attached memorandum of points and authorities, accompanying proposed  
2 order and proposed Process of Maritime Attachment and Garnishment, the  
3 relevant pleadings, documents and matters of which the Court may take judicial  
4 notice, and such other matters which may properly come before this Court.

5 Date: July 23, 2022.

6 Respectfully submitted,

7 /s/ Neil B. Klein

8 Neil B. Klein

9 McKasson & Klein LLP

10 Attorneys for Plaintiff Eastern Pacific

11 Chartering (22) Inc.

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

Plaintiff Eastern Pacific Chartering (22) Inc. (“EPC22” or “Plaintiff”) moves, pursuant to Supplemental Rule B for Certain Admiralty and Maritime Claims of the Federal Rules of Procedure (“Rule B”), for an Order directing the Clerk to issue Process of Maritime Attachment and Garnishment (“Writ”) for the property of Defendant Louis Dreyfus Company Freight Asia Pte Ltd. (“LDCFA” or “Defendant”) held or controlled by named Garnishee DBS Bank Ltd. and providing further that the Clerk may issue additional writs on application by EPC22.

### II. THE CONDITIONS FOR RULE B PROCESS ARE SATISFIED

Supplemental Rule B for Certain Admiralty and Maritime Claims of the Federal Rules of Procedure (“Rule B”) permits a plaintiff to attach defendant’s property in the hands of garnishees if: (1) Plaintiff has a valid prima facie admiralty claim against defendant; (2) defendant cannot be found within the district; (3) defendant’s property can be found within the district, and (4) there is no statutory or maritime law bar to the attachment. Fed. R. Civ. P., Supp. Rule B; *Equatorial Marine Fuel Mgmt. Servs. Pte v. MISC Berhad*, 491 F.3d 1208, 1210(9th Cir. 2010), *Aqua Stoli Shipping Ltd. v. Gardner Smith Pty. Ltd.*, 460 F.3d 434, 445 (2nd Cir. 2006). The standard of proof for a plaintiff seeking maritime attachment under Rule B is permissive in the initial pleading stage as plaintiff need not prove its claim by a preponderance of the evidence, or to a similar standard, but rather present sworn factual assertions satisfying the four prerequisites.

#### A. EPC22 Has a Valid Admiralty Claim Against Defendants

Plaintiff’s Verified Complaint confirms that Defendant chartered the Vessel from EPC22 pursuant to a Charter Party dated May 4, 2021 for the transport of Cargo from Indonesia to Greece. The Cargo was loaded on the Vessel in accordance with the stowage plan provided by LDCFA. Defendant’s stowage plan was faulty, allowing the temperature of the Cargo to significantly exceed the



1 specifications for the transportation of the Cargo, resulting in damage to the  
2 Cargo. Defendants have failed to pay for those damages.

3 Accordingly, EPC22 has set out enough facts in its Verified Complaint to state  
4 a *prima facie* admiralty claim under general maritime law. *Interpool, Ltd. v. Char*  
5 *Yigh Marine SA*, 890 F.2d 1453, 1454, fn 2 (9th Cir. 1989) (charter party is a  
6 maritime contract).

### 7 **B. Defendant's Property Is Found Within This District**

8 EPC22 seeks attachment of Defendants' property, as defined in the Verified  
9 Complaint, including but not limited to accounts held by Garnishee DBS Bank Ltd.  
10 and any other funds/property maintained by the Garnishee for the benefit of  
11 Defendant.

12 The Verified Complaint sets out the factual "bases for its belief that  
13 [D]efendant's property may be found within this District, as well as the garnishees  
14 it seeks authorization to serve." *Wight Shipping, Ltd. v. Societe Anonyme*  
15 *Marocaine de L'Industrie Du Raffinage S.A.*, 2008 U.S. Dist. LEXIS 106420, \*7  
16 (S.D.N.Y. Nov. 24, 2008) (considering pleading requirements for "property held by  
17 garnishee" under Rule B). "At the pleading stage, no obligation exists to prove  
18 anything, only to allege 'enough facts to state a claim to relief that is plausible on  
19 its face.'" *Capitol Records, Inc. v. City Hall Records, Inc.*, 2008 U.S. Dist. LEXIS  
20 55300, \*21–22 (S.D.N.Y. July 18, 2008) (quoting *Bell Atlantic Corp v. Twombly*, 550  
21 U.S. 544 (2007)). EPC22's allegations demonstrate a "plausible" entitlement to a  
22 maritime attachment because they "at least show that it is plausible to believe that  
23 Defendant's property will be "in the hands of" garnishees in [this District] at the time  
24 the requested writ of attachment is served or during the time that service is  
25 affected. *Peninsula Petroleum Ltd. v. New Econ Line Pte Ltd.*, 2009 U.S. Dist.  
26 LEXIS 24470, \*5 (S.D.N.Y. Mar. 17, 2009).

27 Specifically, EPC22 is informed and believes that Defendant does, or will during  
28 the pendency of this action, have tangible or intangible property within the Central

1 District of California. Named garnishee DBS Bank Ltd. does business with  
2 Defendant and has an office or agents located in this District which, on information  
3 and belief, EPC22 reasonably believes holds accounts which are the property of  
4 and/or owing to Defendant. See Dkt. 1, ¶16. The proposed Writ thus names DBS  
5 Bank Ltd. and orders the garnishment of Defendant's property (bank accounts).  
6 Plaintiff's proposed Writ also limits garnishments "to the amount sued for" as  
7 required by Rule B.

8 **C. There Is No Statutory or Maritime Law Bar to Rule B Process**

9 There is no statutory or maritime bar to the instant application for Rule B  
10 process of maritime attachment and garnishment.

11 **III. CONCLUSION**

12 For the reasons stated herein EPC22 respectfully requests that the Court direct  
13 the Clerk to issue process of attachment and garnishment of Defendant's property,  
14 including but not limited to accounts held by Garnishee DBS Bank Ltd., and any  
15 other funds/property maintained by garnishee(s) for the benefit or on behalf of  
16 Defendant.

17 Date: July 23, 2022

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19 Respectfully submitted,

20  
21 /s/ Neil B. Klein  
22 Neil B. Klein  
23 McKasson & Klein LLP  
24 Attorneys for Plaintiff Eastern Pacific  
25 Chartering (22) Inc.  
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1 **UNITED STATES DISTRICT COURT**

2 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

3 EASTERN PACIFIC CHARTERING  
4 (22) INC.,

Case No. 2:22-cv-5111

5 Plaintiff,

IN ADMIRALTY

6 vs.

7 LOUIS DREYFUS COMPANY  
8 FREIGHT ASIA PTE LTD.,

**PROCESS OF MARITIME  
ATTACHMENT AND  
GARNISHMENT**

9 Defendant,

10 and

11 DBS BANK LTD.,

[Rule B(1) of the Supplemental Rules  
for Certain Admiralty and Maritime  
Claims of the Federal Rules of Civil  
Procedure]

12 Garnishee  
13  
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15 **GARNISHEE: DBS BANK LTD.**

16 **WHEREAS**, Plaintiff Eastern Pacific Chartering (22) Inc. (“Plaintiff”) filed a  
17 Verified Complaint on July 23, 2022, in the United States District Court for the  
18 Central District of California, for amounts alleged due and owing to said Plaintiff  
19 by Defendant LOUIS DREYFUS COMPANY FREIGHT ASIA PTE LTD. in the  
20 sum of at least **\$3,004,704.40**, and praying for Process of Maritime Attachment  
21 and Garnishment against Louis Dreyfus Company Freight Asia Pte Ltd. pursuant  
22 to Supplemental Rule B for Certain Admiralty and Maritime Claims of the Federal  
23 Rules of Procedure (“Rule B”); and

24 **WHEREAS**, this Process of Maritime Attachment and Garnishment issued  
25 following the Court’s review of Plaintiff’s Verified Complaint, verification, and *ex*  
26 *parte* application for issuance of process of maritime attachment and  
27 garnishment, pursuant to which the Court found the conditions of Rule B appear  
28

1 to exist and entered an Order so stating and authorizing issuance of process of  
 2 maritime attachment and garnishment;

3 **NOW, THEREFORE**, you are hereby commanded that if the said Defendant  
 4 cannot be found within the District, you attach the following pursuant to  
 5 Supplemental Rule E(5) for Certain Admiralty and Maritime Claims of the Federal  
 6 Rules of Procedure:

7 All assets, cash, funds, credits, wire transfers, accounts, letters of  
 8 credit, electronic fund transfers, freights, sub-freights, charter hire,  
 9 sub-charter hire, or any other tangible and/or intangible assets  
 10 belonging to, due, claimed by, being held for or on behalf of, or being  
 11 transferred for the benefit of Defendant Louis Dreyfus Company  
 12 Freight Asia Pte Ltd. within this District up to **\$3,004,704.40**, and that  
 13 the same be attached as may be found in the possession of  
 14 garnishees or which are found in the possession or control of  
 15 specific garnishee DBS Bank Ltd., and/or any other garnishee within  
 16 this District.

17 **YOU ARE FURTHER COMMANDED**, promptly after execution of this  
 18 process, to file notice in this Court with your return thereon and mail a copy to  
 19 the attorney at whose request the execution was completed.

20 WITNESS THE HONORABLE Judge \_\_\_\_\_, Magistrate Judge of this  
 21 Court, this \_\_\_\_ day of July 2022.

22  
 23 By: \_\_\_\_\_  
 24 CLERK OF THE COURT

25 BY: \_\_\_\_\_  
 26 Deputy Clerk  
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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

10 EASTERN PACIFIC CHARTERING  
11 (22) INC.,

Case No. 2:22-cv-5111

12 Plaintiff,

IN ADMIRALTY

13 vs.

14 LOUIS DREYFUS COMPANY  
15 FREIGHT ASIA PTE LTD.,

**[PROPOSED] ORDER  
AUTHORIZING ISSUANCE OF  
PROCESS OF MARITIME  
ATTACHMENT AND  
GARNISHMENT**

16 Defendant,

17 and

18 DBS BANK LTD.,

19 Garnishee  
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22 The Court, having reviewed Plaintiff Eastern Pacific Chartering (22) Inc.'s *Ex*  
23 *Parte* Application for Issuance of Process of Maritime Attachment and  
24 Garnishment, together with the Verified Complaint and the attorney declaration  
25 averring that Defendant Louis Dreyfus Company Freight Asia Pte Ltd. cannot be  
26 found in the Central District of California, and finding that the conditions of  
27 Supplemental Rule B for Certain Admiralty and Maritime Claims of the Federal  
28 Rules of Procedure ("Rule B") appear to exist, hereby:

1       **ORDERS** that the Clerk of this Court issue Process of Maritime Attachment  
2 and Garnishment, pursuant to Rule B, for all assets, cash, funds, credits, wire  
3 transfers, accounts, letters of credit, electronic fund transfers, freights, sub-  
4 freights, charter hire, sub-charter hire, or any other tangible and/or intangible  
5 assets belonging to, due, claimed by, being held for or on behalf of, or being  
6 transferred for the benefit of Defendant Louis Dreyfus Company Freight Asia Pte  
7 Ltd., including, but not limited to any such assets as may be in the possession,  
8 custody or control of, or being transferred through any garnishee within this  
9 District, and said Order being equally applicable with respect to the issuance and  
10 service of additional writs of maritime attachment and garnishment upon any  
11 garnishees in this District not named herein, pursuant to Rule B of the  
12 Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal  
13 Rules of Civil Procedure;

14       **ORDERS** that any person claiming an interest in the property attached or  
15 garnished pursuant to said Order shall, upon application to the Court, be entitled  
16 to a prompt hearing at which Plaintiff shall be required to show why the  
17 garnishment or attachment should not be vacated or other relief granted;

18       **ORDERS** that any property attached or garnished pursuant to this Order may  
19 be released from seizure without further order of the Court, as long as the  
20 garnishee receives written authorization for the release from the attorney who  
21 requested the attachment and garnishment, which written authorization shall  
22 state that all parties in the Action have conferred through their counsel and  
23 consent to the request for release, and provided that the Court has not entered  
24 an order modifying the procedure for release of property attached pursuant to  
25 this Order;

26       **ORDERS**, that the Clerk may issue supplemental or further writs of maritime  
27 attachment and garnishment upon request by Plaintiff and without further order  
28 of the Court;

